

## FREEDOM OF SPEECH AND THE PRESS IN ECUADOR

February 2011

There has been recent reporting in the United States concerning freedom of speech and the press in Ecuador. The catalyst for this reporting was a February 6, 2011 article in EL UNIVERSO, a prominent daily newspaper in Ecuador, in which the paper's editorial page editor referred to President Correa of Ecuador as "the Dictator", accused him of ordering authorities to fire on a hospital, and cautioned of a potential future trial for "crimes against humanity" against the President.<sup>1</sup>

On March 22, 2011, the President exercised his rights under Ecuadorian law and sued the editor and the owners of EL UNIVERSO for malicious libel. He later offered to drop all charges if the paper presented evidence of the allegations or issued a retraction. The paper refused to do either. The editor later resigned from the paper. On July 20, 2011, the court found the editor and the paper criminally liable. The decision is under appeal.

The EL UNIVERSO article questions the events of a September 30, 2010 police demonstration regarding wages. The President of Ecuador visited the demonstrators to respond personally to their concerns. The demonstration quickly turned violent and took on the appearance of an attempted coup. Shots were fired and the President was caught in the uprising and had to be carried to a nearby hospital after suffering from the effects of tear gas. The army then rescued the President after the hospital was overrun by police who threatened more violence.

### FACT VERSUS FICTION

The February 6 article was less of an opinion piece and more of a rant of personal attacks against the President unsupported by facts. Indeed, the article demonstrated a reckless disregard for the truth. Here are the facts:

1. The author refers to President Correa throughout the article as "the Dictator" in order to humiliate the President.

FACT: President Correa is far from being a dictator. He was elected by an overwhelming majority of voters and enjoys broad support in Ecuador and beyond:

- ✓ *The United States deplores violence and lawlessness and we express our full support for President Rafael Correa, and the institutions of democratic government in that country. We urge all Ecuadorians to come together and to work within the framework of Ecuador's democratic institutions to reach a rapid and peaceful restoration of order. U.S. Secretary of State Hillary Clinton, Sept. 30, 2010.*<sup>2</sup>

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<sup>1</sup> *No to the lies*, EL UNIVERSO, Feb. 6, 2011, available (in Spanish) at: <http://www.eluniverso.com/2011/02/06/1/1363/mentiras.html>.

<sup>2</sup> *Events in Ecuador*, press statement, U.S. Department of State (Sept. 30, 2010), available at: <http://www.state.gov/secretary/rm/2010/09/148481.htm>.

- ✓ *The Permanent Council of the Organization of American States (OAS) today expressed its “repudiation of any attempt to alter the democratic institutional system” in Ecuador, and also its “firm” support for the constitutional government of President Rafael Correa. Organization of American States, Sept. 30, 2010.<sup>3</sup>*
- ✓ *The Carter Center is deeply concerned about recent events in Ecuador and expresses its support for the constitutional government of this country and its democratically-elected President Rafael Correa Delgado. The Carter Center, Sept. 30, 2010.<sup>4</sup>*
- ✓ *Rafael Correa is the first president since the 1979 return to democracy to enjoy sustained popularity in all regions of the country and among a broad array of class and demographic groups. U.S. Department of State, Background Note: Ecuador, updated June 8, 2010.<sup>5</sup>*
- ✓ *True to his campaign promises, President Correa has altered the Ecuadorian political landscape during the last five years and laid the foundations to bring about broad reforms. National Democratic Institute.<sup>6</sup>*

Among the results of almost 20,000 interviews throughout Latin America, is that President Correa was found to have a 64 percent approval rating, ranking him the third most popular leader in Latin America.<sup>7</sup> The same report found that Ecuador: (1) ranked first in Latin America with 62 percent of its citizens saying they trust their government, and (2) ranked second with 50 percent of Ecuadorians saying they believe the government does “a lot” for their families.<sup>8</sup>

2. The EL UNIVERSO article claims that “the Dictator . . . ordered gunfire at will and without warning into a hospital full of civilians and innocent people.”

FACT: The President gave no such order. Two subsequent investigations into the events – one by Ecuador’s Fiscalía, the other conducted by the United Nations – found no evidence that the President ordered any gunfire. Neither the editor nor the paper has offered evidence to support this claim.

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<sup>3</sup> *OAS Permanent Council Repudiates Events in Ecuador and Supports the Government of President Correa*, press release (Sept. 30, 2010), available at: [http://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-360/10](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-360/10).

<sup>4</sup> *Carter Center Statement on Ecuador*, press release, The Carter Center (Sept. 30, 2010), available at: <http://www.cartercenter.org/news/pr/ecuador-093010.html>.

<sup>5</sup> Background Note: Ecuador, U.S. Department of State (updated June 8, 2011).

<sup>6</sup> *Ecuador*, National Democratic Institute, available at: <http://www.ndi.org/print/14106>.

<sup>7</sup> *2011 Report*, Corporación Latinobarómetro (Oct. 28, 2011), available at: <http://www.latinobarometro.org/latino/LATCorporacion.jsp>.

<sup>8</sup> *Id.*

3. The EL UNIVERSO article warned the President of a potential future trial for the September 30, 2010 incident, labeling it “[c]rimes against humanity”.

FACT: Shots were fired during the incident and there were casualties. This was a tragic but isolated event, far from constituting a crime against humanity. To the contrary, the United Nations investigation found that “[t]he violent events of September 30, 2010 in Ecuador were an attempt of political destabilization and a threat to constitutional order and democracy in that country. . . .”<sup>9</sup> The United Nations also found the uprising “threatened the life of President Rafael Correa.”<sup>10</sup>

### FREEDOM OF SPEECH AND THE PRESS IN ECUADOR

Biased reporting is nothing new, and it is certainly no secret that the publishers of EL UNIVERSO and Ecuador’s President do not see eye-to-eye. There is great responsibility, however, that comes with the special freedoms that journalists enjoy. In Ecuador, citizens and public servants alike are protected under the law from unsupported attacks and malicious reporting that go beyond legitimate political debate.

Article 16 of Ecuador’s constitution guarantees freedom of expression.<sup>11</sup> Like other nations, however, Ecuador also has civil and criminal laws that govern libel.<sup>12</sup> Indeed, many countries – including many Western democracies considered to be leaders on human rights issues<sup>13</sup> – continue to enforce criminal libel statutes. According to data from one NGO, of 168 countries for which data are available, 156 have criminal defamation laws and 12 do not.<sup>14</sup> Importantly, no journalist in Ecuador has gone to jail or paid a significant fine in the five years President Correa has been in office.

A vibrant, professional, and often critical independent press contributes enormously to strengthening democracy and increasing civic participation. Scurrilous and inaccurate reporting by EL UNIVERSO, on the other hand, is a disservice to the majority of other press in Ecuador that seek the truth and provide citizens with the facts necessary for them to form their own opinions. In fact, Ecuadorians recognize the valuable contribution made by the press, in part, because they have a wide variety of press from which to choose:

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<sup>9</sup> *UN Mission Ends Visit in Ecuador*, United Nations press release (Jan. 20, 2012), available at: <http://www.un.org/spanish/News/fullstorynews.asp?newsID=22528>.

<sup>10</sup> *Id.*

<sup>11</sup> ECUADOR CONST., art. 16.

<sup>12</sup> See Articles 489 and 490 of Ecuador’s Penal Code.

<sup>13</sup> This list includes France, Germany, Spain, Canada, and many others.

<sup>14</sup> See Article 19, Criminal Defamation, at <http://www.article19.org/advocacy/defamationmap/overview.html>. The numbers cited above adjust the published numbers for two countries that have repealed their criminal libel laws since the last update of the website. Included among the twelve are the United States (which does not have national criminal libel laws), United Kingdom, Ireland, Ghana, Bosnia & Herzegovina, Estonia, Georgia, Cyprus, Moldova, Romania, and Ukraine.

- There are more than 35 daily newspapers circulating in Ecuador (a country whose population of 15 million people roughly equals Illinois), offering a wide variety of opinions, analysis and political perspectives.
- Ecuador ranks in the top half of countries surveyed in newspapers per capita, with 2.93 newspapers per 1 million people. According to UNESCO, Ecuador ranks above Belgium, Brazil, Australia, the Netherlands, and the United Kingdom in this category.
- In addition to the national television channels, many privately run television networks and local channels are widely available throughout the country.
- Public service television stations and stations created by the Ecuadorian government operate autonomously, and some have close relationships with opposition parties. TV MICC, for example, is affiliated with the opposition party Pachakutik.

#### **AN IMPROVED STANDARD OF LIVING IN ECUADOR**

The business of governing any nation is not easy, and Ecuador has had a particularly difficult history with 7 failed presidencies over 10 years. President Correa is the first President in decades to unify the country and improve the wellbeing of its citizens through a series of initiatives that have generated credible results. The President's record speaks for itself:

##### **The Economy is Stronger:**

- Ecuador's growth ranks third among countries in Latin America according to the United Nations Economic Commission for Latin America and the Caribbean Countries.
- Inequality continues to drop dramatically. The ratio among the poorest and richest Ecuadorians has declined 10 points from 28 to 10.
- Tax revenues over the past 4 years have increased by approximately 3.2 percent of GDP to 15.5 percent. Revenues have doubled in nominal terms.
- Infrastructure is improving. More than 9 percent of GDP is being invested to improve roads, ports, and IT infrastructure which in turn is reducing the cost of business transactions and is attracting private investment.
- Investments in science and technology have doubled.
- Competitiveness rankings administered by the World Economic Forum show Ecuador has improved markedly across several economic indicators due to greater efficiency, improved infrastructure, and less red tape.

##### **Social indicators are improving:**

- Unemployment has dropped from 8 percent in 2007 to 5.1 percent in 2011.
- National poverty has decreased from 38 percent in 2006 to 28 percent. In urban areas, poverty has dropped from 26 to 17 percent.
- Public and social investment doubled in 2011.
- School matriculation among indigenous and afro-Ecuadorians has increased from 48.9 percent in 2006 to 62.5 percent in 2011.
- University enrollments have doubled for indigenous and afro-Ecuadorian populations: from 6.5 to 14.5 percent, and 9.5 to 19.7 percent respectively.
- Illiteracy has dropped from 9 percent in 2001 to 6.8 percent in 2011.

*This material is distributed by Patton Boggs LLP on behalf of the Republic of Ecuador.  
Additional information is available at the FARA Registration Unit of the U.S. Department of Justice in Washington, D.C.*



**Health and education expenditures are increasing:**

- Investment in public health has doubled from 0.6 to 1.2 percent of GDP.
- 52 health facilities have been constructed
- 152 ambulances have been purchased
- 14,977 health professionals have been hired
- 3,920 schools have been rebuilt and expanded

These are tangible, fact-based results – and Ecuadorians agree. While the President's approval ratings are among the highest of any Latin American leader, his work continues. Ongoing priorities include:

- ✓ improving public education through infrastructure investment, increasing access to education in the country's remote areas, and strengthening equal access to quality education nationwide;
- ✓ improving hospitals, increasing preventative care, and hiring more doctors and medical professionals; and
- ✓ continued improvement of the country's infrastructure including roads, airports and electric power facilities.

The future of Ecuador is bigger than any one president. Rather than waging a personal campaign of reckless and inaccurate articles about the President himself, perhaps its time for EL UNIVERSO to join the legitimate political debate occurring in Ecuador about the President's policies and their impact on the future of the country and its people.

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